

CCRB INVESTIGATIVE RECOMMENDATION

| | | | | | |
|---|---|---------------------------|--|---|---------------------------------|
| Investigator: Michael Talisayan | Team: Squad #11 | CCRB Case #: 201905911 | <input type="checkbox"/> Force | <input checked="" type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> O.L. | <input type="checkbox"/> Injury |
| Incident Date(s) Saturday, 07/06/2019 6:55 PM | Location of Incident: 170 Vermilyea Avenue; 34th Precinct Stationhouse | Precinct: 34 | 18 Mo. SOL 1/6/2021 | EO SOL 8/23/2021 | |
| Date/Time CV Reported Mon, 07/08/2019 11:27 AM | CV Reported At: CCRB | How CV Reported: Phone | Date/Time Received at CCRB Mon, 07/08/2019 11:27 AM | | |

| Complainant/Victim | Type | Home Address |
|--------------------|------|--------------|
| | | |

| Witness(es) | Home Address |
|-------------|--------------|
| | |
| | |

| Subject Officer(s) | Shield | TaxID | Command |
|----------------------|--------|--------|---------|
| 1. POM Daniel Wynne | 11292 | 962083 | 034 PCT |
| 2. SGT Angel Delgado | 05528 | 930022 | INT CIS |
| 3. DI Peter Andrea | 00000 | 915231 | 034 PCT |

| Witness Officer(s) | Shield No | Tax No | Cmd Name |
|---------------------------|-----------|--------|----------|
| 1. POM Oscar Polanco | 15392 | 966279 | 034 PCT |
| 2. POF Jamie Lam | 02348 | 964602 | 034 PCT |
| 3. POM Samuel Byun | 07129 | 960300 | 034 PCT |
| 4. POM Joseph Duernberger | 18593 | 958529 | 034 PCT |
| 5. LT Tancredo Contreras | 00000 | 943103 | 034 PCT |
| 6. POM Hansel Salcedo | 16775 | 961228 | 034 PCT |

| Officer(s) | Allegation | Investigator Recommendation |
|---------------------|---|-----------------------------|
| A.SGT Angel Delgado | Abuse: In front of 170 Vermilyea Avenue, in Manhattan, Sergeant Angel Delgado threatened to damage § 87(2)(b)'s property. | |
| B.SGT Angel Delgado | Abuse: In front of 170 Vermilyea Avenue, in Manhattan, Sergeant Angel Delgado damaged § 87(2)(b)'s property. | |
| C.SGT Angel Delgado | Discourtesy: In front of 170 Vermilyea Avenue, in Manhattan, Sergeant Angel Delgado spoke discourteously to § 87(2)(b) | |
| D.POM Daniel Wynne | Discourtesy: In front of 170 Vermilyea Avenue, in Manhattan, Police Officer Daniel Wynne spoke discourteously to § 87(2)(b) | |
| E.DI Peter Andrea | Discourtesy: At the 34th Precinct stationhouse, Deputy Inspector Peter Andrea spoke discourteously to § 87(2)(b) | |
| F.SGT Angel Delgado | Discourtesy: At the 34th Precinct stationhouse, Sergeant Angel Delgado spoke discourteously to § 87(2)(b) | |

Case Summary

On July 8, 2019, § 87(2)(b) called the CCRB and filed this complaint via telephone.

On July 6, 2019, at approximately 6:55 p.m., § 87(2)(b) was by the rear of his vehicle, which was double-parked outside of 170 Vermilyea Avenue in Manhattan. In an unmarked vehicle, Sgt. Angel Delgado, Deputy Inspector Peter Andrea, and PO Oscar Polanco, all assigned to the 34th Precinct, approached § 87(2)(b)'s vehicle. As PO Polanco began writing a summons, § 87(2)(b) entered the driver's seat of his vehicle. Sgt. Delgado told § 87(2)(b) that his vehicle would be towed and instructed him to exit it. § 87(2)(b) did not comply.

Sgt. Delgado threatened to break the driver's side door of § 87(2)(b)'s vehicle (**Allegation A: Abuse of Authority**, § 87(2)(g)). Sgt. Delgado allegedly banged the bottom of his radio or his fist on the top panel of the driver's side door and the window, denting the top panel. Sgt. Delgado allegedly struck the middle of the door with his knee, creating a dent in the middle of it (**Allegation B: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) eventually exited the vehicle. Sgt. Delgado called for additional units. PO Danielle Wynne and PO Joseph Duernberger, both assigned to the 34th Precinct, arrived and assisted Sgt. Delgado in placing § 87(2)(b) in handcuffs. Sgt. Delgado told § 87(2)(b) "You're going to jail today, motherfucker. Put him in the fucking car." Sgt. Delgado allegedly stated, in the presence of § 87(2)(b) "Take his ass to the precinct and grab his car" and "Don't tow that shit. Just drive it back to the precinct." While speaking to an unidentified bystander, Sgt. Delgado allegedly stated, "He § 87(2)(b) wanted to be an asshole" (**Allegation C: Discourtesy**, § 87(2)(g)). As PO Wynne escorted § 87(2)(b) to a police vehicle for transport, PO Wynne told § 87(2)(b) to "Get in the fucking car" and "Get in the goddamn car" (**Allegation D: Discourtesy**, § 87(2)(g)).

At approximately 7:00 p.m., as PO Wynne and PO Duernberger escorted § 87(2)(b) into the stationhouse, DI Andrea told § 87(2)(b) to "Shut your fucking mouth" twice (**Allegation E: Discourtesy**, § 87(2)(g)). In the front desk area, Sgt. Delgado allegedly spoke discourteously to § 87(2)(b) (**Allegation F: Discourtesy**, § 87(2)(g)).

The investigation obtained body-worn camera footage from officers from the 34th Precinct who responded to the scene. In addition, the investigation obtained footage from bystanders.

§ 87(2)(b) was arrested for § 87(2)(b) as a result of this incident [Board Review 01].

Findings and Recommendations

Allegation (A) Abuse of Authority: In front of 170 Vermilyea Avenue, in Manhattan, Sergeant Angel Delgado threatened to damage § 87(2)(b)'s property.

Allegation (B) Abuse of Authority: In front of 170 Vermilyea Avenue, in Manhattan, Sergeant Angel Delgado damaged § 87(2)(b)'s property.

It is undisputed that § 87(2)(b)'s vehicle was double-parked outside of 170 Vermilyea Avenue in Manhattan. In an unmarked Ford Fusion, Sgt. Delgado instructed § 87(2)(b) to move his vehicle. Sgt. Delgado drove down the block, performed a U-turn, and parked in front of § 87(2)(b)'s vehicle. Sgt. Delgado, PO Polanco, and DI Andrea exited the vehicle. PO Polanco began writing a summons to § 87(2)(b) and § 87(2)(b) entered the driver's side of his vehicle and began making a call to 911.

Cellphone video footage provided by § 87(2)(b)'s friend, § 87(2)(b) (his last name is unknown), appears to be taken from the sidewalk, near the passenger's side of a parked

vehicle. The footage captures the front passenger's window and windshield of § 87(2)(b)'s vehicle. Sgt. Delgado is on the driver's side of § 87(2)(b)'s vehicle. Sgt. Delgado states, "Get out of the car. Get out of the car. You raise the window, and I'm gonna break it. I'm trying to not break your window. Open the door and let's go. I'm not gonna tell you again. Open the thing." The footage does not capture Sgt. Delgado striking § 87(2)(b)'s vehicle [Board Review 02, time stamps 00:00:00 to 00:00:27 in the video player].

§ 87(2)(b) stated that from inside an unmarked Ford Fusion, Sgt. Delgado instructed him to move his vehicle. § 87(2)(b) entered his vehicle to move it. Sgt. Delgado drove down the block and performed a U-turn with his vehicle and parked directly in front of § 87(2)(b)'s vehicle. Sgt. Delgado, PO Polanco, and DI Andrea stepped out of the vehicle. Sgt. Delgado told § 87(2)(b) that he would receive a summons for double-parking, which PO Polanco began writing. Sgt. Delgado then told § 87(2)(b) that his vehicle would be towed. § 87(2)(b) told Sgt. Delgado that he already had been issued a summons and that he was going to move his vehicle. Sgt. Delgado informed § 87(2)(b) that he was being arrested and instructed him to exit the vehicle; § 87(2)(b) refused. During his sworn-statement, § 87(2)(b) observed the video footage provided by § 87(2)(b) and pointed out that Sgt. Delgado also threatened to break his driver side window. After the alleged threat, Sgt. Delgado, with his hand or the bottom of his radio, banged the top panel of the driver's side door, denting the top panel. Sgt. Delgado used his knee to kick the door as well, denting the middle of the door [Board Review 03].

Sgt. Delgado testified that he instructed § 87(2)(b) to move his vehicle, to which § 87(2)(b) refused. Sgt. Delgado parked his unmarked vehicle in front of § 87(2)(b)'s vehicle, and Sgt. Delgado, DI Andrea, and PO Polanco stepped outside. § 87(2)(b) ran into his vehicle and tried to move it while PO Polanco was writing a summons. Sgt. Delgado told § 87(2)(b) that he could not leave the scene. Sgt. Delgado asked for § 87(2)(b)'s driver's license and vehicle registration approximately four or five times. § 87(2)(b) refused to provide his documentation and stated that he would call the police on the officers. Sgt. Delgado, with his hand, banged on the driver's side window of § 87(2)(b)'s vehicle two or three times, instructing § 87(2)(b) to exit the vehicle. Sgt. Delgado did not observe any damage to the top panel of the driver's side door. Sgt. Delgado threatened to break the window because § 87(2)(b) was not complying with his commands. Sgt. Delgado was uncertain whether he struck the driver's side door with his radio and did not think he struck the middle of the door with his knee. He used his radio to call for assistance [Board Review 04].

DI Andrea testified that Sgt. Delgado instructed a crowd of individuals near a double-parked car to move the vehicle. DI Andrea did not recall whether Sgt. Delgado issued a command over the loudspeaker. After waiting a few minutes – DI Andrea did not recall how long – DI Andrea instructed a third uniformed officer, who was sitting in the back of their vehicle, to issue a summons to the double-parked vehicle. From the group of individuals, § 87(2)(b) walked toward the officers and spoke to the officer issuing the summons. DI Andrea did not recall whether the summons was handed to § 87(2)(b) or placed onto his vehicle. § 87(2)(b) refused to move the vehicle. § 87(2)(b) was told the vehicle would be towed. While the officers were calling for a tow truck, § 87(2)(b) entered his vehicle. § 87(2)(b) refused to exit it. Sgt. Delgado instructed § 87(2)(b) to exit his vehicle and provide identification several times [Board Review 05].

DI Andrea, who was standing by Sgt. Delgado, did not recall Sgt. Delgado threatening to break the driver's side door window, or if Sgt. Delgado was holding anything in his hands at the time he approached § 87(2)(b)'s vehicle or if Sgt. Delgado ever used his radio to strike the top panel of the driver's side door. He also did not recall Sgt. Delgado striking the door with his knee or making physical contact with § 87(2)(b)'s vehicle [Board Review 05].

PO Wynne testified that he arrived in response to Sgt. Delgado's request for assistance. PO Wynne assisted Sgt. Delgado with removing § 87(2)(b) from his vehicle. PO Wynne did not hear Sgt. Delgado threaten to break the driver's side window of § 87(2)(b)'s vehicle nor did he observe Sgt. Delgado strike any part of it. While conducting an inventory search of § 87(2)(b)'s vehicle after it was removed to the 34th Precinct stationhouse for safekeeping, PO Wynne observed a scuff or mark on the driver's side window [Board Review 06]

§ 87(2)(b) provided photographs of the dents to the top panel and the middle of the driver's side door [Board Review 07, 08].

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (C) Discourtesy: In front of 170 Vermilyea Avenue, in Manhattan, Sergeant Angel Delgado spoke discourteously to § 87(2)(b).

Allegation (D) Discourtesy: In front of 170 Vermilyea Avenue, in Manhattan, PO Danielle Wynne spoke discourteously to § 87(2)(b).

PO Wynne's body-worn camera footage captures Sgt. Delgado standing by the driver's side door of § 87(2)(b)'s vehicle. § 87(2)(b) opens the door and Sgt. Delgado pulls him out. A voice states, "You're going to jail today, motherfucker. [Unintelligible] Put him in the fucking car." PO Wynne escorts § 87(2)(b) to another police vehicle. § 87(2)(b) yells and does not immediately step inside. PO Wynne tells § 87(2)(b) to get in the car twice and then states, "Get in the fucking car." PO Wynne then directs § 87(2)(b) to another police vehicle. § 87(2)(b) continues to yell, pausing at the car door entrance. PO Wynne tells him, "Get in the goddamn car" [Board Review 09, time stamps 00:00:00 to 00:01:26 in the video player].

PO Hansel Salcedo's body-worn camera footage captures Sgt. Delgado speaking to an unidentified civilian from behind § 87(2)(b)'s vehicle. Sgt. Delgado explains to the unidentified civilian why § 87(2)(b) was being arrested. Sgt. Delgado says to an unidentified civilian, "He wanted to be an asshole" [Board Review 10, time stamps 00:00:49 to 00:00:55 in the video player].

§ 87(2)(b) stated that as he was being taken out of his vehicle, Sgt. Delgado told two officers who had responded to "take his § 87(2)(b)'s ass to the precinct and grab his car. Don't tow that shit. Just drive it to the precinct" [Board Review 03].

During his initial CCRB interview on July 31, 2019, Sgt. Delgado did not know whether he told an officer in the presence of § 87(2)(b) to "Take his ass to the precinct and grab his car" and was not sure whether he stated to an officer, "Don't tow that shit. Just drive it back to the precinct" [Board Review 04].

On March 3, 2020, Sgt. Delgado was interviewed again to review body-worn camera footage from PO Wynne and PO Salcedo [Board Review 09, 10]. Sgt. Delgado recognized himself standing by the driver's side of § 87(2)(b)'s vehicle. Sgt. Delgado was not certain whether he said, "You're going to jail today, motherfucker. Sgt. Delgado acknowledged telling an officer, in the presence of § 87(2)(b) to put him in the fucking car. He did not have a reason for saying the aforementioned statement. Sgt. Delgado acknowledged speaking to a civilian to explain something, but he did not hear the statement, "He wanted to be an asshole" [Board Review 11].

During his initial CCRB interview on September 19, 2020, PO Wynne initially testified that he heard profanity at the scene, but did not know who used it. PO Wynne did not hear Sgt. Delgado state, "Take his ass to the precinct and grab his car" and "Don't tow that shit. Just drive it to the precinct" [Board Review 06].

On February 27, 2020, PO Wynne was interviewed again to review his body-worn camera footage [Board Review 09]. PO Wynne identified Sgt. Delgado as the officer standing by the driver's side of § 87(2)(b)'s vehicle. Sgt. Delgado stated, "You're going to jail today, motherfucker" and "Put him in the fucking car." PO Wynne did not hear any other profanity [Board Review 12].

DI Andrea reviewed body-worn camera footage from PO Wynne [Board Review 09] and PO Salcedo [Board Review 10]. DI Andrea recognized the officer by the driver's side of § 87(2)(b)'s vehicle as Sgt. Delgado. DI Andrea did not recognize the voice who stated, "You're going to jail today, motherfucker" or the voice that stated, "Put him in the fucking car." DI Andrea did not know who stated, "Get in the fucking car." DI Andrea did not recall any other profanity being used in presence of § 87(2)(b) [Board Review 05].

NYPD Patrol Guide Procedure 200-02 indicates that police officers must value human life, respect the dignity of each individual and render their services with courtesy and civility [Board Review 13]. DAO-DCT Case Number 2018-18951 [Board Review 14] states that profane remarks, made during stressful, violent confrontations or while an officer is trying to gain control of a chaotic situation, are not misconduct.

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (E) Discourtesy: At the 34th Precinct stationhouse, Deputy Inspector Peter Andrea spoke discourteously to § 87(2)(b).

Allegation (F) Discourtesy: At the 34th Precinct stationhouse, Sergeant Angel Delgado spoke discourteously to § 87(2)(b).

PO Samuel Byun's body-worn camera footage captures officers escorting § 87(2)(b) into the 34th Precinct stationhouse. Once § 87(2)(b) exits the police vehicle, § 87(2)(b) asks the officers to not touch him and states, "You're all in trouble. Depending on how you act right now is how it's gonna go down. Delgado is going down. Fuck that! I want a superior here." § 87(2)(b) is brought to an entrance of the stationhouse, where DI Andrea is standing outside. § 87(2)(b) tells DI Andrea, "And the captain. You allow that? He banged on my window? All I had to do was move. All I had to do was move." DI Andrea points to § 87(2)(b) and states, "Shut your fucking mouth," twice [Board Review 15, time stamps 00:07:30 to 00:08:06 in the video player]. Inside the stationhouse, § 87(2)(b) argues with officers off-camera and states, "That officer right there. Has a history of beating people." An officer's voice off-camera replies, "Save it for the judge, big guy. I beat people up all the time" [Board Review 15, time stamps 00:09:20 to 00:10:25 in the video player].

§ 87(2)(b) did not mention DI Andrea speaking discourteously to him at the 34th Precinct stationhouse. In the desk area, as § 87(2)(b) was being processed prior to being placed into a holding cell, Sgt. Delgado told § 87(2)(b) "Shut your mouth. Tell it to the judge. We don't care," and "You know why you're being arrested? You hang around assholes" [Board Review 03].

DI Andrea was presented with PO Byun's body-worn camera footage [Board Review 15]. He acknowledged that he spoke discourteously toward § 87(2)(b) in response to the latter using profanity toward the officers. DI Andrea confirmed Sgt. Delgado's presence at the stationhouse. He did not recognize the voice that told § 87(2)(b) "Save it for the judge, big guy," at the stationhouse [Board Review 05].

During his initial interview at the CCRB on July 31, 2019, Sgt. Delgado initially testified that he did not interact with § 87(2)(b) at the 34th Precinct stationhouse. Sgt. Delgado denied telling § 87(2)(b) "You know why you're being arrested? You hang around assholes" [Board Review 04].

In a subsequent interview, Sgt. Delgado was presented with PO Byun's body-worn camera footage to confirm whether a voice off-camera belonged to him [Board Review 14]. Sgt. Delgado did not recognize the voice who stated, "Save it to the judge, big guy." Sgt. Delgado reiterated his previous

interview statement in which he did not have any further interaction with § 87(2)(b) [Board Review 11].

PO Wynne testified that Sgt. Delgado was in the front desk area. § 87(2)(b) was yelling at Sgt. Delgado, but PO Wynne did not recall whether Sgt. Delgado said anything in response. PO Wynne did not hear Sgt. Delgado tell § 87(2)(b) “You know why you’re being arrested? Because you hang around assholes” [Board Review 06].

NYPD Patrol Guide Procedure 200-02 indicates that members of service must value human life, respect the dignity of each individual and render their services with courtesy and civility [Board Review 13]. DAO-DCT Case Number 2018-18951 [Board Review 14] states that profane remarks, made during stressful, violent confrontations or while an officer is trying to gain control of a chaotic situation, are not misconduct.

§ 87(2)(g)

§ 87(2)(b) alleged that in the front desk area, Sgt. Delgado told § 87(2)(b) “You know why you’re being arrested? You hang around assholes.” Although Sgt. Delgado denied having any interaction with § 87(2)(b) at the 34th Precinct stationhouse, DI Andrea and PO Wynne provided consistent testimony confirming his presence there. The obtained body-worn camera footage captures § 87(2)(b)’s arrest processing at the front desk. The footage does not capture the alleged discourteous remarks nor does the footage capture Sgt. Delgado having any visible interaction with § 87(2)(b) inside the stationhouse, aside from a voice that may belong to the former stating, “Save it for the judge, big guy,” the voice of which Sgt. Delgado did not recognize.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the fourth CCRB complaint to which § 87(2)(b) has been a party. § 87(2)(b) has been a party to the following complaints: § 87(2)(b)
 - § 87(2)(b)
 - § 87(2)(b)
 - § 87(2)(b)
 - § 87(2)(b)
 - § 87(2)(b)
 - § 87(2)(b)
- Sgt. Delgado has been a member of service for seventeen years. Nineteen complaints, and 43 allegations, have been filed against him, three of which have been substantiated: CCRB case # 201203919 involved Physical Force, Refusal to Provide Name/Shield, Retaliatory Arrest, Stop, and a Discourtesy. § 87(2)(g)

- § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b)

Squad No.: 11

Investigator: _____ Inv. Michael Talisayan _____ 06/15/2020
Signature Print Title & Name Date

Squad Leader: Edwin Pena IM Edwin Pena 06/15/20
Signature Print Title & Name Date

Reviewer: _____

Signature _____ Print Title & Name _____ Date _____